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19 Corporation and EchoStar Technologies L.L.C.

20 UNITED STATES DISTRICT COURT

21 CENTRAL DISTRICT OF CALIFORNIA

22 NBC STUDIOS, LLC; *et al.*,

23 Plaintiffs,

24 v.

25 DISH NETWORK CORPORATION,  
26 DISH NETWORK L.L.C., ECHOSTAR  
CORPORATION and ECHOSTAR  
27 TECHNOLOGIES L.L.C.

28 Defendants.

Case No. CV12-04536-DMG-SHx

**JOINT RESPONSE TO ORDER  
TO SHOW CAUSE**

1 Plaintiffs NBC Studios, LLC, Universal Network Television LLC, Open 4  
2 Business Productions LLC, and NBCUniversal Media, LLC (collectively  
3 “Plaintiffs”) and Defendants DISH Network Corporation, DISH Network L.L.C.,  
4 EchoStar Corporation and EchoStar Technologies L.L.C. (collectively  
5 “Defendants”) jointly respond to the Court’s Order to Show Cause why the stay in  
6 this action should not be lifted, as follows:

- 7 • The parties agreed to stay this action pending final resolution of the  
8 appeal currently before the Ninth Circuit in *Fox Broadcasting Company,*  
9 *Inc. et al. v. DISH Network L.L.C. et al.*, CV-12-04529 DMG (SHx) (the  
10 “Fox Litigation”), with the Ninth Circuit index number 12-5078. There  
11 are overlapping copyright claims in this case, and the parties believe that  
12 the final resolution of this appeal will provide clarity on the governing law  
13 for this case. However, the Fox Litigation involves additional copyright  
14 claims that are not asserted by Plaintiffs in this case and that are not at  
15 issue in the above-referenced appeal. The Fox Litigation also involves  
16 contract claims that are unique to the Fox plaintiffs;
- 17 • The parties have agreed upon mechanisms to avoid duplication of  
18 discovery between this case, the Fox Litigation, and *DISH Network L.L.C.*  
19 *v. American Broadcasting Companies, et al.*, No. 12 Civ. 4155 (LTS)  
20 (KNF) (S.D.N.Y.) (the “SDNY Litigation”) and promote efficiency.  
21 Specifically, the parties have agreed that (i) Plaintiffs will not take  
22 discovery on issues that are duplicative of issues in the Fox Litigation or  
23 the SDNY Litigation, (ii) Plaintiffs will rely on (and, at their option,  
24 observe) depositions of DISH’s witnesses taken on those issues during the  
25 stay, (iii) For any DISH witness whose deposition testimony in the Fox  
26 Litigation or the SDNY Litigation DISH believes will include issues that  
27 are duplicative of issues in this case, DISH shall, within a reasonable time  
28 after the scheduling of such witnesses’ deposition (but in no event fewer

1 than 5 business days before the scheduled deposition date), notify  
2 Plaintiffs of the name of the deponent and the date, time and location of  
3 the deposition. If DISH fails to provide such notice, the prohibition in  
4 subsection (i) of this paragraph shall not apply to that witness; and (iv)  
5 DISH will produce to Plaintiffs the same documents that it produces in the  
6 Fox Litigation and the SDNY Litigation relating to such issues after the  
7 stay has been lifted, provided that nothing in this subsection (iv) shall  
8 prohibit Plaintiffs from obtaining copies of documents used as exhibits at  
9 a deposition taken during the stay, whether those copies are provided at  
10 the deposition itself or are bound or otherwise appended to the transcript  
11 of the deposition ordered by Plaintiffs. The parties have further agreed  
12 that any non-duplicative discovery will be conducted upon the lifting of  
13 the stay; and

- 14 • Based on the foregoing, the parties propose that the temporary stay of the  
15 case remain in effect pending final completion of the appeal before the  
16 Ninth Circuit regarding the first preliminary injunction motion made by  
17 the Fox Plaintiffs in the Fox Litigation. For purposes of clarity, final  
18 resolution of the appeal includes the final resolution of any petitions or  
19 appeals to the United States Supreme Court.

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1 Dated: December 20, 2013

Mitchell Silberberg & Knupp LLP

2  
3 By: /s/ - Patricia H. Benson

4 PATRICIA H. BENSON

Attorneys for Plaintiffs

5 NBC Studios, LLC, Universal  
6 Network Television LLC, Open 4  
Business Productions LLC, and  
NBCUniversal Media, LLC

7 Dated: December 20, 2013

Orrick, Herrington & Sutcliffe LLP

8  
9 By: /s/ - William A. Molinski

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